MAIL STOP AF
PATENT
1515-1034

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

Stefan VIRTANEN Conf. 4900

Application No. 10/534,365 Group 3672

Filed December 5, 2005 Examiner G. Collins

A REAMER ASSEMBLY

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Assistant Commissioner for Patents September 18, 2007
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please enter the amendment of August 20, 2007.

It is respectfully requested that a Pre-Appeal Brief review be conducted.

The grounds for this review are as follows:

The present invention is a reamer assembly for widening a drill pilot hole. It is divided into at least three conical segments 18, each of which includes drill buttons 16. The position of the drill buttons on one segment will be the same as the drill buttons on the others with respect to the distance from the center axis of the drill bit. See Figure 3 of our drawings.

Also, each of the conical segments 18 has plural drill bits 16 disposed at different distances from the center axis of the drill bit. On Figure 3 of our drawings, this means that the

lines 19a, 19b, 19c are different distances from the axis of the drill bit, which is the broken vertical line at the left of Figure 3.

Our specification makes plain why we do this: see the paragraph bridging pages 3 and 4 of the specification, and more particularly, on page 4, lines 6-16, which point out as follows:

> "By placing the buttons 16 in the drill bit 15 in this way, the buttons are themselves able to guide the reamer 11 when drilling in rock 12, so as to cause the drilled hole to follow the pilot hole 13.
>
> The various buttons 16 of each segment 18 are positioned so as to lie at different radial distances from the axial centre of the drill bit, so that at least one button of each segment will be able to guide the reamer towards the edge of the pilot hole."

This arrangement of the buttons 16 thus provides a centering effect, as we point out in our specification.

The final rejection of May 18, 2007 rejected the claims as anticipated by or unpatentable over BRANDENBERG et al. U.S. Patent No. 6,799,648.

BRANDENBERG et al. discloses the drill bit having conical surfaces 22 and having buttons 30 on those conical surfaces.

But notice that the buttons 30 on the conical surfaces 22 are all at the same distance from the axis of rotation of the drill bit. This arrangement is consistently shown in all of Figures 1-5 of BRANDENBERG et al.

In other words, in the applied reference, there are no buttons disposed at different distances from the axis of rotation of the drill bit along those conical surfaces.

We pointed this out in an Amendment After Final Rejection filed August 20, 2007, to which the Examiner replied, in an Advisory Action of August 31, 2007 that the claims do not recite the centering action.

But of course they don't. The centering action is a result, a function of the structure. To claim the structure in a patentable way, you have to recite unobvious structure, and not the function or result. Had we relied on the function or result, then the claims would have been properly objectionable as being functional rather than structural at the point of novelty.

The Examiner notes our argument that there are drill buttons arranged at different distances from the axis of rotation and states that, however, the claims do not recite this limitation. But in fact they do. See the last three lines of claim 1.

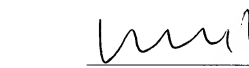
It is quite plain that you cannot go up to the Board with such rejections, and have any hope of winning. The time to pull the plug on this appeal is right now, and you are respectfully requested to do so.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON



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